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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BOTTORFF, CHRISTOPHER	

ART UNIT	PAPER NUMBER
3618	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/647,652	BRENDEL, THOMAS	
	Examiner	Art Unit	
	Christopher Bottorff	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *12,13,17,19 and 20* is/are allowed.

6)☒ Claim(s) *1-11,14-16 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The amendment filed May 16, 2006 has been entered. Claims 1-20 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-11, 14-16, and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Claims 1 and 15 each require the driven wheels to be "front" wheels. However, the disclosure does not indicate that the driven wheels are "front" wheels at all times, nor does the disclosure establish the conditions that would allow a wheel to be classified as a "front" wheel at all times.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11, 14-16, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 15 require the driven wheels to be "front" wheels. However, the disclosure does not establish the conditions that would allow a wheel to be classified as a "front" wheel at all times. As a result, the characteristics that render the position of the driven wheels to be a "front" position are not clear. The "front" position may depend upon the relative position of other wheelchair components or the relative position of objects that are external and unrelated to the wheelchair. For example, the "front" position of the wheelchair could be determined based upon the position of the seat or upon the components that first pass objects along the wheelchair's path of travel. Körber et al. US 4,953,645 explain how driven wheels may alternate between being front wheels and rear wheels. See column 2, lines 19-24, and column 3, lines 6-29. For the purposes of examination, the driven wheels have been interpreted as being "front" wheels when they pass objects along the wheelchair's path of travel before the castors.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Körber et al. US 4,953,645 in view of Lee US 6,302,421.

Körber et al. disclose a wheelchair having two driven wheels 3 and at

least one castor 5 which is mounted in a rotatable manner in a fork 16 which can be pivoted about a vertical axis. See Figure 4. The driven wheels 3 are front wheels when the wheelchair is configured for outdoor use. See column 3, lines 18-22. The fork 16 is connected to a steering linkage 20, wherein the connection between the fork 16 and the steering linkage 20 is releasable through coupling 17. See Figure 4 and column 4, lines 12-17, 19-21, 37-39, and 52-55. Also, Figure 2 and column 3, lines 42-52, provide further explanation of the caster components and coupling 17.

The at least one caster comprises two castors 5 each mounted in a fork 16. See Figure 4. The forks 16 are connected to one another via the steering linkage 20. See Figure 4. The forks 16 are mounted such that each can be rotated about a vertical axis through 360 degrees. See Figure 4. The forks can be blocked mechanically in relation to the steering linkage through coupling 17, and can be blocked in the straight-ahead position of the castors through coupling 17 unless steered in another direction. See Figure 4 and column 4, lines 19-21, 37-39, and 52-55. Also, the forks 16 are each mounted, via a fork pin 15 in a bushing (shown in Figure 2 supporting pin 15 above fork 16) connected to a frame 1. See Figures 4 and 2.

Körber et al. do not disclose that the connection between the fork and the steering linkage is releasable by actuation of a bolt that is subject to a load by a spring or that the fork pin is mounted via bearings in the bushing. However, Lee discloses the desirability of connecting a fork 12F and a steering linkage 34, 38 of a wheelchair such that the fork 12F may be mechanically blocked in relation to the steering linkage 34, 38 and the connection is releasable by actuation of a bolt in coupling 32 which is subject to

a load by a spring. See Figures 1B, 1M and 1N; column 8, lines 49-50 and 62-67; and column 11, lines 45-55. The bolt can be pushed, transversely to the vertical axis, into the recess 12D in the fork pin 12A. See Figures 1M and 1N. The bolt is subjected to loading by a compression spring and can be displaced counter to the force of the compression spring. See column 8, lines 62-67. The bolt is connected to an actuating lever (formed by the ring disposed on the end of the pin opposite fork pin 12A), which is mounted in a pivotable manner on a spindle (formed by the coupling housing that surrounds and supports the pin in coupling 32). See Figure 1N. Also, the forks 12F are each mounted, via the fork pin 12A and bearings, in a bushing 12B. See Figure 1N.

From the teachings of Lee, providing a connection between the fork and the steering linkage of Körber et al. such that the connection is releasable by actuation of a bolt that is subject to a load by a spring would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide a mechanical locking and releasing system that offers simplicity, reliability, and low maintenance. From the further teachings of Lee, mounting the fork pin of Körber et al. via bearings in the bushing would have been obvious to one of ordinary skill in the art at the time the invention was made. This would help provide the fork pin with efficient rotational movement.

Claims 10, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Körber et al. US 4,953,645 in view of Lee US 6,302,421 as applied to claims 1, 7, and 8 above, and further in view of Kovacs US 5,170,529.

Körber et al., as modified by Lee, do not disclose displacing the bolt via a pivot-lever arrangement or via a linearly displaceable lever, which is acted on by a pivot lever. However, Kovacs teaches the desirability of providing such a pivot-lever arrangement on a caster wheeled vehicle. See Figures 3 and 4. The bolt 50 can be displaced via a pivot-lever arrangement 26, 44 in which the bolt 50 is displaced via a linearly displaceable lever 44 acted on by a pivot lever 26. See Figure 4. Also, the pivot lever 26 has a rounded protuberance at its front end. See Figures 3 and 4.

From the teachings of Kovacs, providing the wheelchair of Körber et al., as modified by Lee, with a pivot-lever arrangement as claimed would have been obvious to one of ordinary skill in the art at the time the invention was made. Such a modification would provide a structure that efficiently actuates the bolts of each caster.

Allowable Subject Matter

Claims 12, 13, 17, 19, and 20 are allowed. Claim 12 requires the linearly displaceable lever to have a run on slope that interacts with a radial shoulder of the bolt. Claim 13 requires the pivot lever to be mounted on a spindle connected to the bushing. These features, in combination with the further limitations of the claim, are not taught by the prior art. In regard to claims 17, 19, and 20, the prior art does not teach an outer end of a steering linkage having both a horizontally running through-passage bore and a vertical bore, a vertically displaceable lever provided with a run-on-slope that interacts with the bolt, or two connected pivot levers with a pivoting motion initiated by a piston

rod interacting with the fork. These features, in combination with the further limitations of the claims from which they depend, are not taught by the prior art.

Response to Arguments

Applicant's arguments filed May 16, 2005 have been fully considered but they are not persuasive.

In regard to the rejections under 35 USC 112, Applicant asserts that support is inherently disclosed for the "front" orientation, especially in view of the seat orientation depicted in Figure 1. As such, Applicant asserts, the claims are definite. However, the disclosure fails to offer sufficient context in which a "front" orientation may be determined. The prior art, as exemplified by Körber et al., explains that the front and rear orientation may vary as the seat orientation varies. See column 2, lines 19-24, and column 3, lines 6-29, of Körber et al. Although the prior art includes wheelchair configurations in which the seat orientation is fixed and may provide a basis for designating a front orientation, the prior art also includes configurations in which the seat pivots such that the driven wheels are sometimes rear wheels. Applicant's disclosure does not sufficiently disclose the seat structure to exclude the possibility that the seat pivots such that the "front" and "rear" orientations vary and the driven wheels are sometimes "rear" wheels.

Applicant notes that the failure of the specification to mention a particular feature does not *per se* mean that there is not support for the feature. As a general principle, this is true. However, in the present case, where the seat may pivot such that the

driven wheels may be rear wheels, the failure to establish a context in the disclosure in which the drive wheels may be front wheels at all times, as required by the present claims, is a failure to provide support for this designation. Citing *All Dental Podx, LLC v. Advantage Dental Products, Inc.*, Applicant notes that the failure to mention a limitation in the specification is not fatal "when one skilled in the art would recognize upon reading the specification that the new language reflects what the specification shows has been invented." However, one of ordinary skill in the art would not recognize that the driven wheels of the present invention are always front wheels based upon a reading of the present specification since the specification does not explain how the driven wheels are always oriented in the front. This is particularly true when one of ordinary skill in the art reads the specification in light of that which is known in the prior art, such as the varying front and rear orientation explained by Körber et al. Consequently, the "front" orientation is not inherently disclosed by the present application and the use of the "front" orientation in the claims is indefinite.

Although the examiner does not agree with Applicant's assertions regarding the rejection under 35 USC 102 in view of Lee, that rejection has been withdrawn and the above rejection under Körber et al. in view of Lee is presented to minimize confusion over the "front" orientation. As a result, Applicant's remarks regarding the previous rejection under 35 USC 102 in view of Lee are moot.

In regard to Kovacs, Applicant previously contended, in the remarks to the amendment filed July 7, 2005, that the wheelchair of Körber et al. and the cart of Kovacs are of divergent arts and one of ordinary skill in the art would not have looked to

Kovacs for the claimed features. However, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Kovacs is reasonably pertinent to the problem of locking castors with which Applicant and Körber et al. were concerned. Also, the cart of Kovacs and the wheel chairs of the present invention and Körber et al. are in the same field of wheeled vehicles with casters. Therefore, one of ordinary skill in the art would have looked to Kovacs for a caster locking arrangement, including an arrangement with a pivot and lever system.

Conclusion

Due to the new terms of rejection presented above, this office action is **NOT** final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Bottorff